

§ 30.152

(ii) Interests of the devisees or eligible heirs in trust or restricted land which are not part of the decedent's trust inventory; and

(iii) Interests of the decedent, the devisees, or eligible heirs in any covered permanent improvements attached to a parcel of trust or restricted land in the decedent's trust inventory.

(2) The parties must offer evidence sufficient to satisfy the judge of the percentage of ownership held and offered by a party.

(3) If the decedent's devisees or eligible heirs enter into an agreement, the parties to the agreement are not required to comply with the Secretary's rules and requirements otherwise applicable to conveyances by deed.

(b) If the judge approves an agreement, the judge will issue an order distributing the estate in accordance with the agreement.

(c) In order to approve an agreement, the judge must find that:

(1) The agreement to consolidate is voluntary;

(2) All parties to the agreement know the material facts;

(3) All parties to the agreement understand the effect of the agreement on their rights; and

(4) The agreement accomplishes consolidation.

(d) An interest included in an approved agreement may not be purchased at probate without consent of the owner of the consolidated interest.

[73 FR 67289, Nov. 13, 2008, as amended at 76 FR 7507, Feb. 10, 2011]

§ 30.152 May the parties to an agreement waive valuation of trust property?

The parties to a settlement agreement or a consolidation agreement may waive valuation of trust property otherwise required by regulation or the Secretary's rules and requirements. If the parties waive valuation, the waiver must be included in the written agreement.

§ 30.153 Is an order approving an agreement considered a partition or sale transaction?

An order issued by a judge approving a consolidation or settlement agreement will not be considered a partition

43 CFR Subtitle A (10–1–11 Edition)

or sale transaction under 25 CFR part 152.

Subpart G—Purchase at Probate

§ 30.160 What may be purchased at probate?

An eligible purchaser may purchase, during the probate, all or part of the estate of a person who died on or after June 20, 2006.

(a) Any interest in trust or restricted property, including a life estate that is part of the estate (i.e., a life estate owned by the decedent but measured by the life of someone who survives the decedent), may be purchased at probate with the following exceptions:

(1) If an interest is included in an approved consolidation agreement, that interest may not be purchased at probate without consent of the owner of the consolidated interest; and

(2) An interest that a devisee will receive under a valid will cannot be purchased without the consent of the devisee.

(b) A purchase option must be exercised before a decision or order is entered and must be included as part of the order in the estate.

[73 FR 67289, Nov. 13, 2008, as amended at 76 FR 7507, Feb. 10, 2011]

§ 30.161 Who may purchase at probate?

An eligible purchaser is any of the following:

(a) Any devisee or eligible heir who is taking an interest in the same parcel of land in the probate proceeding;

(b) Any person who owns an undivided trust or restricted interest in the same parcel of land;

(c) The Indian tribe with jurisdiction over the parcel containing the interest; or

(d) The Secretary on behalf of the tribe.

§ 30.162 Does property purchased at probate remain in trust or restricted status?

Yes. The property interests purchased at probate must remain in trust or restricted status.